



UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
1 COURTHOUSE WAY, SUITE 2300
BOSTON, MASSACHUSETTS 02210
(617) 748-9152

NOV 22 2004



LAWYER REFERRAL SERVICE*

Boston Bar Association Lawyer Referral Service

16 Beacon Street
Boston, MA 02108
(617) 742-0625

The Lawyer Referral Service will make referrals to lawyers through the Greater Boston area for both civil and criminal cases.

Massachusetts Bar Association Lawyer Referral Service

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Volunteer Lawyers Project (VLP)

29 Temple Place
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Joseph Marion Head junior 17549-056
Through the volunteer lawyers project, private attorneys contribute their services to eligible clients at no cost.

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This legal service program provides free legal services to low income people in civil cases only.

Legal Advocacy and Resource Center

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- * This list is not all inclusive. For more information, please consult your local Yellow Pages.

Relief Demanded By The Plaintiff Pro Se

1. Leave to Proceed In Forma Pauperis
2. Appointment of Counsel
3. Appointment of Investigators
4. The Maximum Criminal, Civil, Tort, and Domestic Reliefs authorized by law, to include as to all prior relief demanded by Plaintiff in his prison and court records
5. All processes, et cetera, relating hereto be fully Transcribed and Transcripts of Same be made and given to Plaintiff

Signed Joseph Marion Head Junior,
17549-056

Nov. 6th, 2004

F.M.C. Devens

PO Box 879

Ayer, MA 01432

Date Sent To court By Mail

Nov. 13 2004

Joseph Marion Head Junior 17549-056

Nov. 13 2004

The court will have to make and serve all Required Copies of this Complaint. Plaintiff is unable to do so, due to his indigence.

*Joseph Marion Head Junior
Rig. No. 17549-056
Nov. 13, 2004*

United States
District of

District Court
Massachusetts

Joseph Marion Head
vs

Unknown Parties
No. 04-40089-RGS

And

United States of America
No. 04-40090-RGS

And

United States of America,
State of North Carolina,
David L. Winn
No. 04-40103-RGS

And

Numbers Below As Applies

04-CV-10522

04-CV-11120

04-CV-40042

04-CV-40084

04-CV-40090

04-CV-40103

Notice of Appeal
In Forma Pauperis
As To Each Case
And
Motion For Appointment
of Counsel On Appeal
Of Each Case

Now Comes, Joseph Marion Head, who pro se
gives notice of appeal to the First Circuit
Court of Appeals, from the final order of
United States Federal District Court Judge, Richard
G. Stearns, dated November 9, 2004, dismissing
without prejudice, the above entitled cases. As to

court holds proper hearings. In plaintiff's state case 73CR5057, the trial judge did not hold said hearings. On appeal a new trial was ordered for reasons stated in the court records, and later the charge was dismissed.

(24)

The federal courts required filing fees which the plaintiff could not pay, and said courts dismissed, because the filing fees were not timely paid.

(25)

Whether or not plaintiff is in custody of his state cases, because the state cases were used to prejudice the plaintiff, as to his federal sentences. Further, the sex offender's act as applied to the plaintiff to report for ten years after sentence's completed (28U.S.C.2254).

(26)

All prior claims, et cetera, presented within prison records and court records relating to the plaintiff.

said order, appellant objects thereto and makes exceptions thereto as legally applies.

The Issues On Appeal Are

Each presented claim and grounds etc., in the above entitled cause and all others of prison and court records relating to appellant which may be presented on appeal hereof. As to all the aforesaid, see the prison and court records relating to the aforesaid and appellant herein and Records of F.M.C. Devens Relating To Appellant herein.

Signed Joseph Marion Head Reg. No.
17549-056

N-2 Cell 219, F.M.C. Devens
Post office Box 879
Ayer, Massachusetts, 01432

Date this Notice of Appeal sent
to the District Court, Boston Ma.
November 17th, 2004

Joseph Marion Head junior Reg. No. 17549-056

(20)

The prior state convictions of plaintiff are illegal and invalid and unconstitutional, as related in the prison and the court records, thus not available as a basis for enhancing the plaintiff's federal sentencing or for satisfying the statutory elements of a crime that is defined as part of the offender's previously having been convicted . This is unconstitutional, thus establishing the predicate for a Civil Rights Act lawsuit for damages, based on unlawful convictions.

(21)

Plaintiff's right to a writ of habeas corpus was prior-denied to the plaintiff as related in the state and Federal court records and habeas corpus is intended to ensure that no person forfeits life nor liberty without basic structures of a fair trial and appeal, et cetera.

(22)

The state and Federal courts prior-failed to conduct in-court evidentiary hearings, a violation of due process and/or the equal protection of the law, as well as constitutional rights and privileges.

(23)

Due process requires that trial judges resolve questions, whether confessions are voluntary or not, in a hearing, outside the presence of jurors, to order the prisoner released, unless the state

United States District Court
For the District of Massachusetts
Boston Division
1 Court House Way - Suite 2300
Boston Massachusetts 02210

Joseph Marion Head junior
Plaintiff

vs

Organization of American
States, Inter American
Commission And Court On
Human Rights
Defendant

Complaint
In Forma Pauperis
case number _____

Jurisdiction

The Court has jurisdiction herein pursuant to the provisions of laws and constitution which applies hereto and which may be applied hereto.

Plaintiff

Plaintiff herein is, Joseph Marion Head junior Reg. No. 17549-056, who is a Caucasian male born on December Second 1946 in Gastonia, North Carolina of the United States of America and is presently housed in N-2 cell 219 of Federal Medical Center Devens, Located at 42 Patton Road, Post office Box 879, Ayer, Massachusetts, Zipcode 01432 and is in the custody of the Warden thereof, who is

relating to plaintiff's state and federal court cases, except as appears of court records.

(16)

The state and federal courts have never afforded the plaintiff a post-trial evidentiary hearing, or a denial of due process hearing, et cetera.

(17)

Plaintiff's rights and privileges are and were violated as related and asserted within the prison and court records relating to the plaintiff, and his state and federal court cases, et cetera.

(18)

Plaintiff's sentences, to be served in the future, are illegal and unconstitutional because, as related in the prison and court records, they are not based on said reasonable grounds.

(19)

Plaintiff's present sentence is illegal and excessive and is unconstitutional, as related within the prison and court records, but not limited to said reasons and grounds.

David L. Winn, also in the Custody of the United States Attorney General by Court orders.

Defendants

Defendants herein is the Organization of American States, Inter-American Commission and Court on Human Rights, 1889 F. Street, N.W., Washington, D.C. 20006 - United States.

Plaintiff is a laymen at law with no professional training in law and is proceeding pro se without legal assistance of a person professionally trained in law and therefore is legally entitled to a liberal construction of all matters relating hereto and asserted and demanded herein. See Green VS United States 260 F. 3d. 78, 83, (2d. Cir. 2001)

Plaintiff is an indigent federal prisoner proceeding pro se *informa pauperis* and is not by law, required to prove his asserted claims and grounds in advance of an in court evidentiary hearing.

Plaintiffs rights to Counsel relating hereto see and apply 18 U.S.C. 30006A U.S. Const. Amend 6 and 14. Plaintiff does not waive his rights to counsel and does demand counsel to be legally appointed hereto.

(10)

Although the state court conducted the trials, et cetera, plaintiff was denied due process of law and the equal protection of law, and other rights, as is evident from court records and laws.

(11)

Plaintiff was not afforded sufficient time to prepare for retrial of the mistrial and the trial judge denied plaintiff's motion for a continuance, *which was* based on two constitutional grounds, and reasons as related to the records.

(12)

The state and federal courts failed to consider and apply the full scope of the errors of trials, claims, grounds, allegations, motions, et cetera, of prison and court records relating to plaintiff's state and federal cases.

(13)

That the true merits of the factual dispute, et cetera, were not resolved in state and federal court hearings, et cetera, as is evident by the court records relating to same.

(14)

That the material facts were not adequately developed in the state and federal courts prior hereto as is evident of court records.

(15)

That plaintiff was, and is, indigent, and the state and federal courts, in deprivation of plaintiff's liberty and constitutional rights, failed to appoint counsel to represent plaintiff in the state and federal court processes, et cetera, as appears to court Records.

Claims Herein Are Asserted By Plaintiff Pro Se

Claim Number One

Defendants herein failed to afford to plaintiff judicial protection against acts, persons, places, things complained of to Defendants by plaintiff himself prior hereto. See Defendants records as to all aforesaid, and etc relating thereto as to all action etc taken etc and not taken and why? Defendants thereby the aforesaid, violated plaintiffs constitutional and human rights as known by the Courts and defendants.

Relief Demanded Herein By Plaintiff Pro Se

1- Order Defendants to provide to the Court all records of theirs relating to plaintiff, with a statement as to all matters etc relating to each and all said records as to the processes, etc of same and all that was asserted and asked for in each of same and the judgments etc entered as to same.

2- Order Defendants to obtain a copy of each and all records relating to plaintiff and his court cases, State and Federal and Institutions Records also to exclude all medical and phy. records. And to take all appropriate legal actions relating thereto to exclude criminal and civil, tort and domestic, actions

custody and housed in the county jail at that time. Therefore, the retrial of the mistrial was so fundamentally unfair it constituted a denial of due process and equal protection of the law, as well as constitutional rights, and privileges. It was a miscarriage of justice as applicable to double jeopardy, and other violations of rights that also relate to this trial.

(6)

The state trial judges of the plaintiff's state cases made serious prejudicial errors, as they appear in the court records and the law.

(7)

The state's trier of facts relied on events and testimony in the courtroom as the bases for its findings without a reenactment of the alleged crimes and the crimes scene.

(8)

The state court procedure was not capable of reliably finding the relevant facts.

(9)

The state procedure, even if it does not violate the laws or constitutions, appears to be seriously inadequate for the ascertaining of the truth.

on behalf of Plaintiff herein and to
fully and effectively represent same
and Plaintiff herein until there is
no remedy left to pursue. Otherwise
Pay to Plaintiff One Million Dollars Tax
Free because of the violations of Plaintiff's
afforded in claim 1 herein.

That as to the indigence of Plaintiff see
this courts court records relating to
Plaintiff. Further Plaintiff has only \$53
in his prison trust fund account.

Appoint Defendants Herein And The
United Nation Commission Etc. To Fully
Represents Plaintiff, relating to all
legal matters relating to Plaintiff, prior,
present, hereinafter, Also Appoint to
Plaintiff The American Convention on
Human Rights. A.B.A. And A.C.L.U.

Signed Joseph Marion Head junior 17549-056
11-22-04.

Date This Complaint Sent To
Court By Mail 11-23-04
Joseph Marion Head junior
17549-056

and that deprivation, under the circumstances, renderd the State proceeding so fundamentally unfair, as a violation of laws, and rights, et cetera.

(3)

That the performance of plaintiff's court appointed attorneys prior to their withdrawal was so egregiously inadequate or ineffective that counsel's presence and defense actually hindered the plaintiff's exercise of rights and or privileges.

(4)

The state judges who conducted the trials of plaintiff's state cases 73CR5057-74CR2403-74CR2403A, and found facts, was not an impartial decision-maker, either because of the judge's own conduct was at issue or from some other reasons of records, et cetera.

(5)

There were three trials of 74CR2403 and two trials of 74CR2403A and one trial of 73CR5057. At each trail there was a different jury and judge, the same prosecutoe at each trial, and at the last trial, of 74CR2403, plaintiff was forced to represent himself, as appears in related court records, and the plaintiff was a layman at law, had no professional training in law, and was afforded only a day and a half to prepare for trial. Moreover, plaintiff was in

NOV 1 2004

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS
1 COURTHOUSE WAY, SUITE 2300
BOSTON, MASSACHUSETTS 02210
(617) 748-9152



Motion And Request For Legal Assistance And Representation, Present and Hereinafter.

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Defendants

Defendants herein are the United States of America And the State of North Carolina And David L. Winn-Warden of F.M.C. Devens, Post Office Box 890, Ayer, Massachusetts, 01432

Plaintiff herein is a layman at law and has had no professional training in law, and has no legal assistance relating hereto, and therefore moves the court for liberal consideration, et cetera, as to all matters, claims, et cetera, relating hereto this instant complaint.

Plaintiff is proceeding pro se, informa pauperis, and is an ignoramus layman at law; therefore he is not by law required to prove his asserted claims in advance of a full court evidentiary hearing. See judgments of the 4th Cir. Ct. App., of over 20 years ago , to the effect of the aforesaid.

Claims And Grounds Asserted Herein
Pro Se By Plaintiff Aforesaid,
Herein Above:

(1)

Plaintiff was not afforded any funded counsel at the retrial of a mistrial of Plaintiff's state case, in violation of Plaintiff's Constitutional rights to counsel for his defense.

(2)

Plaintiff was not afforded any or adequately funded counsel for his defense after the court-appointed attorney from another county ~~within~~ ^{withdrew} ~~drive time~~, because of insufficient time, in order to prepare for retrial of a mistrial of case 74CR2403, State N.C. vs. Head.

UNITED STATES DISTRICT COURT

Boston

District of

Massachusetts

Joseph Marion Head Jr.

Plaintiff

United States of America, And
David L. Winn, Warden F.M.C. Devens

Defendant

APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF
FEES AND AFFIDAVIT

CASE NUMBER:

Joseph Marion Head Jr.

I declare that I am the (check appropriate box)

petitioner/plaintiff/movant other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC § 1915. I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? Yes No (If "No," go to Part 2)

If "Yes," state the place of your incarceration F.M.C. Devens.

Are you employed at the institution? YES Do you receive any payment from the YES

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? Yes No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer. F.M.C. Devens, Ed. Dept. Amount

About \$25.00 per Month

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

- | | | |
|---|---|--|
| a. Business, profession or other self-employment | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| b. Rent payments, interest or dividends | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance payments | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| d. Disability or workers compensation payments | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| e. Gifts or inheritances | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| f. Any other sources | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

United States District Court
For The District Of Massachusetts
Boston Division
1 Courthouse Way - Suite 2300
Boston, Massachusetts 02210

Joseph Marion Head Junior
Prison Number 17549-056

Plaintiff

Vs

United States of America

And

David L. Winn,
Warden of F.M.C. Devens,
Devens

Complaint
In Forma Pauperis
Case Number

Jurisdiction

The court has Jurisdiction herein pursuant to the provisions of laws and constitution as legally applies hereto as known by the Judge. 18, 28, and 47 U.S.C. As Applies Hereto And As May Be Applied Thereto, ^{Also} Fed. R. 57 Civ. Proc. As Applies, Etc. Hereto Plaintiff

Plaintiff herein is Joseph Marion Head Junior, Prison number 17549-056, who caucasian male, born December second, 1946, in Gastonia, North Carolina, in the United States of America, and is presently housed in N-2, cell 219, of the Federal Medical Center, located at 42 Patton Road, Post Office Box 849, Ayer, Massachusetts, Zip Code 01432.

David L. Winn is the Warden of F.M.C.
Devens

Gifts From A Brother - Amount - N/A
Institutional Job, Z. M. C. Dennis, Ed. Dept.
Amount - About \$20.00 Per Month

4. Do you have any cash or checking or savings accounts? Yes No
If "Yes," state the total amount. \$0.53
5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other thing of value? Yes No *Courts denied prior relief demanded*
If "Yes," describe the property and state its value.
6. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

Nine

I declare under penalty of perjury that the above information is true and correct.

11- 2-34 Joseph Marion Head Senior-17549-056

Date _____ Signature of Applicant

NOTICE TO PRISONER: A Prisoner seeking to proceed without prepayment of fees shall submit an affidavit stating all assets. In addition, a prisoner must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

STATEMENT OF INDIGENCE

Request To Waver Or Defer Payments

I do hereby swear, under penalty of perjury, that the following information is true and correct.

I, Joseph Marion Head Jr., do assert that my income prevents me from paying any fees while incarcerated due to the fact that I only earn \$20.00 About¹ per month at my current work assignment.

By my not being able to afford to pay any unreasonable payments, it adversely affects my ability to research information which could help with any appeal or liberty interest. Any other payments that may have been made in the past have been made with the assistance of family members who cannot afford to help with, nor is it their responsibility to do so.

In the event a full waiver of payments is not feasible, I would agree to, and fully intend to, pay the fees required. However, I would request a deferment of such payments until such time as I am on Supervised Release, at which time I will have an opportunity to obtain meaningful and gainful employment.

Respectfully submitted this 12 day of Nov., 2004.

Name: Joseph Marion Head Jr.
Number: 17549-056
F.M.C. Devens, Unit: IV-A-219
P.O. Box 879
Ayer, MA 01432

¹. Please see copy of account for previous six (6) months.

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS
1 COURTHOUSE WAY, SUITE 2300
BOSTON, MASSACHUSETTS 02210

(617) 748-9152



Motion And Request for Legal Assistance And
Representation, Present and Hereinafter.

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Motion And Request for Legal Assistance And Representation, Present and Hereinafter.
Will Be Provided To Him Relating To His Prior, Present and Hereinafter. For Same, Thank You.

page 9
Relief Demanded By The Plaintiff Pro Se

1. Leave to Proceed In Forma Pauperis
2. Appointment of Counsels
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4. The Maximum Criminal, Civil, Tort,
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5. All processes, et cetera, relating
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17549-056

Nov. 6th, 2004

F.M.C. Devens

PO Box 879

Ayer, MA 01432

Date Sent To court By Mail

Nov. 13 2004

Joseph Marion Head Junior 17549-056

Nov. 13 2004

The court will have to make and serve
all Required Copies of this Complaint.
Plaintiff is unable to do so, due to
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Joseph Marion Head Junior
Reg. No. 17549-056
Nov. 13, 2004

UNITED STATES DISTRICT COURT

Boston

District of

MassachusettsJoseph Marion Head Jr.

Plaintiff

United States of America, And
David L. Winn, Warden F.M.C. Devens

Defendant

APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF
FEES AND AFFIDAVIT

CASE NUMBER:

Joseph Marion Head Jr.

declare that I am the (check appropriate box)

 petitioner/plaintiff/movant other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? Yes No (If "No," go to Part 2)If "Yes," state the place of your incarceration F.M.C. DevensAre you employed at the institution? YES Do you receive any payment from theYES

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? Yes Noa. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer. F.M.C. Devens, Ed. Dept. AmountAbout \$20.00 per month

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

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| f. Any other sources | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

Page 8

court holds proper hearings. In plaintiff's state case 73CR5057, the trial judge did not hold said hearings. On appeal a new trial was ordered for reasons stated in the court records, and later the charge was dismissed.

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Respectfully submitted this 12 day of Nov., 2004.

Name: Joseph Marion Head Jr.
Number: 17549-056
F.M.C. Devens, Unit: IV-2-cell 219
P.O. Box 879
Ayer, MA 01432

1. Please see copy of account for previous six (6) months.

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The prior state convictions of plaintiff are illegal and invalid and unconstitutional, as related in the prison and the court records, thus not available as a basis for enhancing the plaintiff's federal sentencing or for satisfying the statutory elements of a crime that is defined as part of the offender's previously having been convicted . This is unconstitutional, thus establishing the predicate for a Civil Rights Act lawsuit for damages, based on unlawful convictions.

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United States District Court
For The District Of Massachusetts
Boston Division
1 Courthouse Way - Suite 2300
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11/22/04 P 1:23

Joseph Marion Head Junior
Prison Number 17549-056
Plaintiff

UNITED STATES COURT
DISTRICT OF MASS
Complaint
In Forma Pauperis
Case Number

Vs
United States of America
And
David L. Winn,
Warden of F.M.C. Devens,
Devens

Jurisdiction

The court has Jurisdiction herein pursuant to the provisions of laws and constitution as legally applies hereto as known by the Judge. 18, 28, and 42 U.S.C. As Applies Hereto And As May Be Applied Hereto, Also Fed. R. 57 Civ. Proc. As Applies, Etc. Hereto Plaintiff

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and that deprivation, under the circumstances, renderd the State proceeding so fundamentally unfair, as a violation of laws, and rights, et cetera.

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TThat the performance of plaintiff's court appointed attorneys prior to their withdrawal was so egregiously inadequate or ineffective that counsel's presence and defense actually hindered the plaintiff's exercise of rights and or privileges.

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Defendants

Defendants herein are the United States of America
And the State of North Carolina And David L. Winn-
Warden of F.M.C. Devens, Post Office Box 890,
Ayer, Massachusetts, 01432

Plaintiff herein is a layman at law and has had no professional training in law, and has no legal assistance relating hereto, and therefore moves the court for liberal consideration, et cetera, as to all matters, claims, et cetera, relating hereto this instant complaint.

Plaintiff is proceeding pro se, informa pauperis, and is an indigent layman at law; therefore he is not by law required to prove his asserted claims in advance of a full court evidentiary hearing. See judgments of the 4th Cir. Ct. App., of over 20 years ago , to the effect of the aforesaid.

Claims And Grounds Asserted Herein
Pro Se By Plaintiff Aforesaid,
Herein Above:

(1)

Plaintiff was not afforded any funded counsel at the retrial of a mistrial of Plaintiff's state case, in violation of Plaintiff's Constitutional rights to counsel for his defense.

(2)

Plaintiff was not afforded any or adequately funded counsel for his defense after the court-appointed attorney from another county ~~within~~ ^{withdrew} ~~drive time~~, because of insufficient time, in order to prepare for retrail of a mistrial of case 74CR2403, State N.C. vs. Head.